

# Exhibit A



## **INTRODUCTION**

The purpose of this Notice is (i) to inform you of the existence of a collective action lawsuit; (ii) to advise you of how your rights may be affected by this action; and (iii) to inform you of the procedure to make a claim if you choose to do so.

This Notice has been judicially approved. The Court, however, has not made any rulings or determinations of any kind on the merits of Plaintiffs' or Defendants' positions.

## **DESCRIPTION OF THE ACTION**

On February 3, 2010, an action was filed against the above Defendants by a group of their former employees on behalf of themselves and all other waiters, bartenders, barbacks, busboys, runners, dishwashers, cooks, or persons who worked for Defendants in any other equivalent position at any time from February 3, 2007 to the present (the "Proposed Class"). Specifically, the lawsuit alleges that:

- (a) They were not paid overtime at a rate of time-and-one-half for weeks when they worked over 40 hours.
- (b) They did not earn the federal minimum wage of \$5.15 per hour from February 3, 2004 to July 23, 2007; \$5.85 per hour from July 24, 2007 to July 23, 2008; \$6.55 per hour from July 24, 2008 to July 23, 2009; and \$7.25 per hour from July 24, 2009 to the present.
- (c) Their tips were frequently unlawfully confiscated by Defendants, either in part or in full.

Defendants deny all charges of wrongdoing and/or liability to Plaintiffs.

This lawsuit was brought in the United States District Court for the Eastern District of New York and is currently in the early pretrial stage.

## **PERSONS ELIGIBLE TO RECEIVE THIS NOTICE**

The United States District Court for the Eastern District of New York has ordered this FLSA Notice of Pendency be distributed to:

All waiters, bartenders, barbacks, busboys, runners, dishwashers, cooks, or persons who worked for Defendants in any other equivalent position at any time from February 3, 2007 to the present.

## **YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT**

If you fit the description above and believe that Defendants failed to pay you overtime wages for hours worked in excess of 40 hours per week, failed to pay you minimum wages for the hours you worked, and/or confiscated a portion of or the entirety of your tips, you may choose to join this action by mailing, faxing or emailing the attached "Plaintiff Consent Form" to Plaintiffs' counsel at the following address:

Scott B. Gilly, Esq.  
Thompson Wigdor & Gilly LLP  
85 Fifth Avenue  
New York, NY 10003  
Phone: (212) 257-6800  
Fax: (212) 257-6845  
Email: sgilly@twglaw.com  
Website: www.twglaw.com

The "Plaintiff Consent Form" must be returned to Thompson Wigdor & Gilly LLP, attorneys for Plaintiffs, **postmarked no later than \_\_\_\_\_, 2011** [60 DAYS FROM DATE OF MAILING].

**If you do not wish to join this action, you should not return the attached Plaintiff Consent Form, and you should simply take no action.**

### **EFFECT OF JOINING OR NOT JOINING THIS LAWSUIT**

It is entirely your own decision whether or not to join this lawsuit. You are not required to take any action unless you so desire.

If you do choose to join this action, you and Plaintiffs will be bound by any ruling, judgment, award or settlement, whether favorable or unfavorable. That means that, if Plaintiffs (and others who choose to join them, if any) win, you may be eligible to receive a payment; if they lose, no money will be awarded, and you will not be able to file another lawsuit regarding the disputed hours of work and amount of wages paid.

If you do not join this action, you will not be bound by any ruling, judgment, award or settlement entered in this case, favorable or unfavorable. That means that, if Plaintiffs (and others who choose to join them, if any) win, you will not be eligible to receive a payment; if they lose, you will not be bound by that judgment. If you choose not to join this lawsuit, you retain the rights, if any, that you may have under the Fair Labor Standards Act, and you are free to file your own lawsuit, although the time for doing so may expire.

If you file a "Plaintiff Consent Form," your continued right to participate in this action will depend upon a later decision by the Court that you and the named Plaintiffs are actually "similarly situated" in accordance with applicable laws, that it is appropriate for this case to proceed as a collective action, and that your claim has been filed within the applicable statute of limitations.

If you choose to opt in by filing a "Plaintiff Consent Form" while the suit is pending, you may be required to provide documents and information, appear for and testify under oath at a deposition, and testify in federal court in Brooklyn, New York.

## **PROTECTIONS AGAINST RETALIATION**

The law prohibits an employer from retaliating against people who exercise their rights under the FLSA. Defendants are, therefore, prohibited from discharging or retaliating in any manner against you because you chose to participate in this action.

You have a right to participate in this lawsuit even if you are an undocumented alien. Defendants will **not** be permitted to make any inquiries into your immigration status.

## **YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you elect to join this case by filing a "Plaintiff Consent Form," you may choose to be represented by counsel of your own selection, or you may agree to representation by Plaintiffs' counsel.

Plaintiffs' counsel is as follows:

Scott B. Gilly, Esq.  
Thompson Wigdor & Gilly LLP  
85 Fifth Avenue  
New York, NY 10003  
Phone: (212) 257-6800  
Fax: (212) 257-6845  
Email: [sgilly@twglaw.com](mailto:sgilly@twglaw.com)  
Website: [www.twglaw.com](http://www.twglaw.com)

Plaintiffs' counsel is being paid on a contingency and/or statutory basis, which means that if there is no recovery in this action, Plaintiffs and members of the Proposed Class who choose to be represented by Plaintiffs' counsel will not be required to pay any attorneys' fees. If there is a recovery, Plaintiffs' counsel will receive a part of any settlement obtained or money judgment entered in favor of Plaintiffs and the Proposed Class that they also represent. Plaintiffs' counsel will, however, ask the Court to order Defendants to pay these fees. The specific terms and conditions of your legal representation will be contained in a fee agreement entered into by you and the attorneys you choose to represent you.

## **FURTHER INFORMATION**

Further information about this lawsuit or this notice can be obtained by contacting Plaintiffs' counsel at the address or telephone number provided above.

Do **not** call the Court or the Clerk of the Court.

**CONCLUSION**

**THIS NOTICE AND ITS CONTENT HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, THE HONORABLE CHERYL L. POLLAK, UNITED STATES MAGISTRATE JUDGE. THE COURT HAS MADE NO DECISION IN THIS CASE ABOUT THE MERITS OF PLAINTIFFS' CLAIMS OR OF DEFENDANTS' DEFENSES.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Cheryl L. Pollak  
United States Magistrate Judge

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X		
	:	
ABDELLAH BOUZZI, et al., individually and	:	
on behalf of all similarly situated employees,	:	
	:	
Plaintiffs,	:	Case No. 10-CV-0457
-against-	:	(DLI)(CLP)
	:	
F & J PINE RESTAURANT, LLC, et al.,	:	<b>PLAINTIFF CONSENT</b>
	:	<b>FORM</b>
Defendants.	:	
-----X		

I hereby consent to join the lawsuit against F & J PINE RESTAURANT, LLC d/b/a THE PINE RESTAURANT GROUP and/or THE PINE RESTAURANT, THE PINE RESTAURANT GROUP, THE PINE RESTAURANT, 4AKIDS, LLC, A&C PINE PROPERTIES, INC., F&J PINE RESTAURANT, PINE RESTAURANT OF QUEENS (collectively, "Pine Restaurant"), CHARLES ROSE, ANTHONY BASTONE, and DOES 1-5 d/b/a THE PINE RESTAURANT (collectively, "Defendants") as a Plaintiff to assert claims against them for violations under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, et seq. At some time between February 3, 2007 and the present I worked for Defendants as a waiter, bartender, barback, busboy, runner, dishwasher, cook, or in any other equivalent position.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
City, State, Zip Code

**Mail, Fax, or Email to:**

\_\_\_\_\_  
Phone Number

**Scott B. Gilly  
Thompson Wigdor & Gilly LLP  
85 Fifth Avenue  
New York, NY 10003  
Phone: (212) 257-6800  
Fax: (212) 257-6845  
Email: sgilly@twglaw.com**

\_\_\_\_\_  
Email Address